

Minutes of the Kansas Sentencing Commission Meeting August 24, 2006

The Honorable Ernest L. Johnson, Chairman, called the Kansas Sentencing Commission meeting to order on August 24, 2006, at 1:40 p.m. The meeting was held in the Senate Room of the Jayhawk Tower Building, Topeka, Kansas.

Attendance

Members: Honorable Ernest L. Johnson, Chairman; Paul Morrison, Vice Chairman; Honorable Christel Marquardt; Senator Greta Goodwin; Representative Janice Pauls; Representative Kevin Yoder; Chuck Simmons, designee, Department of Corrections; Robert Sanders, designee, Kansas Parole Board; Chris Mechler, Office of Judicial Administration; Annie Grevas, Director of Community Corrections, 28th Judicial District; Kevin Graham, designee, office of Attorney General; Reverend Junius Dotson, Public Member; Captain Dale Finger, Public Member. Staff: Patricia Biggs, Executive Director; Natalie Gibson, Staff Attorney; Kunlun Chang, Research Director; Fengfang Lu, Senior Research Analyst; Lora Moison, Research Analyst; Brenda Harmon, Administrative Assistant; Janice Brasher, Grant Administrator; Marty Schmiedeler, Accountant; Jennifer Dalton, Accountant.

Approval of the Minutes

The Chairman referred to the minutes of the July 6, 2006, Kansas Sentencing Commission meeting. A motion was made to approve the minutes by the Honorable Christel Marquardt and seconded by Ms. Chris Mechler. The motion carried.

Adult Prison Population Projections

Ms. Patricia Biggs gave a PowerPoint presentation on the Fiscal Year 2007 Adult Inmate Prison Population Projections. Data from 1996 through 2006 was used. A handout of the presentation was provided to Commission members. Highlights included:

- Drug level 1 had an average sentence month for those admitted this past year of 69 months. This is a substantial departure from the mid point of the drug level 1 which calls for 162 months.
- Drug level 4 showed 657 admissions, or 17.3% of all admissions. 71.5% of those came in as probation condition violators.
- The numbers on levels 7, 8, 9, 10 and drug level 4 (predominately presumptive probation cases coming in) represented an aggregate 2,447 of the 3,790 new admissions during the fiscal year, which accounts for 65% of all admissions on presumptive probation levels.
- Drug level 2 admissions have been cut in half, from 110 to 50.
- Drug levels 1 and 2 have been impacted by subsequent possession offenses that used to escalate, and now are all down to drug level 4 due to SB 123. This has caused the drug level 4 admissions to increase.

- Parole/post release/post incarceration condition violators have shown a dramatic decrease in commitment by 497 over the past two years. This is predominately being driven down by the changing guidelines and KDOC practice changes.
- Prison population for the next 10 years is predicted to grow from 8,933 to 11,231, which is a net increase of 2,298 or 25% growth in the offender population.
- Failure to Register has been increased from a nondrug 10 to a nondrug 5, which now provides for a new offense every 30 days. We can simulate what we expect the Failure to Register rate to be, but we have no data upon which to base how frequently the 30 days is going to stack up, or if the courts are going to run that consecutive or concurrent.
- Off grid population is expected to grow from 711 to 1,629, or an increase of about 230%. This will be 71% of all new growth we expect to see in the prison population, and is predominately being driven by the sex offenses with children under 14.
- Two years out, projections remain just under KDOC capacity.
- Projections for the violent offenders (off grid, nondrug 1, 2 and 3) will be dramatically affected by the new child sex offenses, with more offenders going in and stacking up over a long period of time.

Following a discussion by Commission members, Ms. Chris Mechler made a motion to approve the Fiscal Year 2007 Adult Inmate Prison Population Projections. Ms. Annie Grevas seconded the motion, and the motion carried.

KSC Workshop Retreat

Ms. Biggs reminded Commission members of the Workshop Retreat that will be held October 5th and 6th in Topeka. The Retreat will run all day Thursday and probably through the noon hour on Friday.

JFA, research associates that are associated with the Council of State Governments and are working with the Department of Corrections, will be sharing some of their analysis work so we can look at it in terms of whether or not there is some leverage we can capitalize on to make our work regarding our statutory obligation a bit easier. The Vera Institute has also been contacted for re-examining the Proportionality Study and updating it for use during the Retreat. Ms. Biggs has not secured a commitment from Vera, but plans to follow up with another phone call. If this doesn't work out, she will seek assistance elsewhere.

Thursday will be used to take a look at the current state of affairs, consideration of proportionality, consideration of re-entry, and consideration of the other work that the Council of State Governments has been doing. Friday will focus on taking all that information and packaging it into what kind of options we might consider, or what might be feasible or possible. Commission research staff will then run numbers, looking at various impacts and scenarios and bringing that information back into the Commission meetings over the next several months, until we come up with something that formulates a good package of several options tied together.

The Honorable Christel Marquardt suggested members of the 3-R's Committee that are working on the Recodification also be involved in the workshop, since they're working on the same issues and could come in and brief the Commission on their findings. Ms. Biggs will extend the invitation.

Commission members were reminded to return their yellow Retreat confirmation forms to Ms. Brenda Harmon so plans can be formalized for the correct number of participants.

Journal Entry follow-up, pending letter/administrative conference request

Chair Johnson intends to write the Chief Judges within the next couple of days explaining our problems with the Journal Entries and the use of modified forms. Ms. Biggs has emailed him a draft of the letter to Dr. Schwartz but Chair Johnson has not authorized its release yet.

Executive Session

Mr. Kevin Graham made a motion to go into Executive Session from 2:40 p.m. until 3 p.m. to discuss personnel matters. Representative Janice Pauls seconded the motion. The motion carried. At 3 p.m. the Commission came back in Session. A motion was made by the Honorable Christel Marquardt to extend Executive Session until 3:15 p.m. A second was made by Mr. Kevin Graham, and the motion carried. At 3:15 p.m. the Commission came back in Session.

Next Meeting

The next meeting is scheduled for October 5th, as part of the Retreat. A motion to adjourn the meeting was made by Mr. Kevin Graham, and seconded by Mr. Chuck Simmons. The motion carried, and the meeting was adjourned.